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September 23, 1983

Mrs. Jean R. Wallin, Chairperson
New Hampshire Liquor Commission
Storrs Street
Concord, New Hampshire 03301

Re: Leasing Space to Blind Services
at Nashua Mall Liquor Store

Dear Mrs. Wallin:

You have asked this office to advise you regarding whether RSA 186-B prohibits Blind Services from selling food, such as cheeses, coffees and pates, in the Nashua Mall liquor store. We conclude that RSA 186-B does not prohibit Blind Services from operating food concessions in state liquor stores.

RSA 186-B:9 provides that licensed blind persons may operate vending facilities on state property. Under RSA 186-B:10(iv) a vending facility includes:

"a vending machine, cafeteria, snack bar, car service, shelter, counter or any other facility for the vending of newspapers, periodicals, confections, tobacco products, foods or beverages, or any combination of them...."

In accordance with this definition, a blind vendor is permitted to sell cheeses, coffees or pates, provided that the location of the vending facility in the liquor store does not "adversely affect the interests of the state." RSA 186-B:11(II).




Mrs. Jean R. Wallin, Chairperson
September 23, 1983
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However, in your opinion request regarding the location of a vending facility in the Nashua Mall store, you noted that the deed for the Nashua Mall store contains a restrictive covenant which provides in part that:

"[N]o retail business selling hard goods, soft goods, groceries...or any business enterprises competitive with business already existing or contracted for in the proposed shopping center...will be permitted."

This restrictive covenant is enforceable against a licensed vending facility operated by Blind Services on the premises of the Nashua Mall state liquor store. We understand, from your opinion request, that there are currently stores in the Nashua Mall selling substantially the same goods as Blind Services proposes to sell. Therefore, we conclude that the restrictive covenant in the deed precludes the operation of the proposed vending facility by Blind Services.

Very truly yours,


Leslie J. Ludtke
Assistant Attorney General
Division of Legal Counsel

LJL:alh
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